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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,182	03/06/2001	John Philipson	35682-8002US	4103
25096	7590	11/14/2006	EXAMINER TOOMER, CEPHIA D	
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			ART UNIT 1714	PAPER NUMBER

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/801,182

Applicant(s)

PHILIPSON, JOHN

Examiner

Cephia D. Toomer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,9-23,27-29,33-41 and 44-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-23,27-29,33-41 and 44-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to the amendment filed August 14, 2006 in which claim 1 was amended.

The rejection of the claims under 35 USC 112, first paragraph is withdrawn.

Upon further consideration and discussion with SPE Vasu Jagannathan, the arguments presented in the interview and the response are not persuasive with respect to differentiating between the municipal waste of the present invention and the waste of Sprules. Therefore, the rejection is maintained.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6, 9-17, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sprules (US 6,113,662).

Sprules teaches a fuel pellet comprising at least 50% spent dried coffee grounds (municipal solid waste), a combustible wax (hydrocarbon material), a coking agent and/or a cellulose material (wood, leaves, etc) (see abstract; col. 2, lines 50-52, 64-66; col. 3, lines 37-44; col. 10, lines 39-59).

Sprules teaches that coffee grounds are clean burning and are less likely to produce polycyclic aromatic hydrocarbons during combustion (see col. 3, lines 24-36).

Sprules teaches that the use of coffee grounds as a fuel source diverts waste from landfills (see col. 3, lines 61-63).

Table 1 shows that the coffee grounds have a heat value of 10,218 BTU/lb, moisture of 2.09 and ash content of 0.84wt%. Table 4 shows that the wax has a heating value of 18,000 BTU and wood has a heating value of 8,000 BTU. Sprules teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Sprules differs from the claims in that he does not specifically teach the heating value of the fuel pellet. However, it would have been obvious to one of ordinary skill in the art to produce a fuel pellet possessing a fuel value of 10,000-14,000 BTU (claims 1 and 11-13) because Sprules teaches that the coffee grounds have a fuel value of 10,000 BTU, the wax has a heating value of 18,000 BTU and wood has a heating value of 8,000. Given these values and Sprules teaching that the fuel pellet contains at least 50% and up to 75% of the coffee ground, it would have been obvious to one of ordinary skill in the art to optimize these result effective variables to obtain fuel pellets that produce a hotter, cleaner burning fuel that releases fewer harmful pollutants and provides a brighter flame over a longer period of time (see abstract; Tables 1-4).

In the second aspect, Sprules differs from the claims in that he does not specifically teach that the solid waste is in the form of a fluff (claims 1 and 18). However, no unobviousness is seen in this difference because regardless of the form of the solid waste a fuel pellet will form. Applicant's choice of fluff as the form of the solid waste is merely a design choice. It is well settled that changes in size/proportions and

shape is prima facie obvious if the claimed products do not perform differently from the prior art. In the instant case, the fuel pellets of the present invention perform the same function as the fuel pellets of Sprules. See MPEP 2144.04 IV(A and B).

In the third aspect, Sprules differs from the claims in that he does not teach the emissions properties of claim 9. However, given that Sprules teaches fuel pellets that contain no hazardous waste, it would be reasonable to expect that the fuel pellets emissions would possess similar properties, absent evidence to the contrary.

In the fourth aspect, Sprules differs from the claims in that he does not specifically teach the size and shape of the fuel pellets. However, it is well settled that changes in size/proportions and shape is prima facie obvious if the claimed products do not perform differently from the prior art. In the instant case, the fuel pellets of the present invention perform the same function as the fuel pellets of Sprules. See MPEP 2144.04 IV(A and B).

3. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Sprules fails to disclose or suggest a pellet including "municipal solid waste" but instead teaches a composition that includes at least 50% by weight of dried spent coffee grounds and a combustible binder. Applicant argues that Sprules teaches away from the claimed municipal waste because Sprules states "since coffee can be obtained in a relatively homogeneous mixture from food processing establishments, it is less likely to contain impurities such as found in sawdust.

Coffee grounds fall into Applicant's definition of household and industrial waste. Households brew coffee and discard the spent coffee grounds and the food

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establishment industry brew huge amounts of coffee per day and the grounds are discarded as waste. Coffee grounds meet applicant's limitations regarding the material being recyclable-free, hazardous waste-free that is approximately or completely free of glass, plastics and paper. Also, Applicant states in the specification that municipal waste includes biodegradable waste and solid waste of various types and other materials. Coffee grounds clearly meet these limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Cepha D. Toomer  
Primary Examiner  
Art Unit 1714

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